

NICOLL DAVIS & SPINELLA LLP
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New York, New York 10177
(212) 972-0786
Attorneys for Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARVIN FRANK, Individually and On Behalf
of a Class

Plaintiff,

v.

BENJAMIN STEAKHOUSE,

Defendants

CIVIL ACTION NO. 07-CV-11419 (JSR)

HONORABLE JED S. RAKOFF

A & B RESTAURANT GROUP, LLC'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS TO PLAINTIFF

PLEASE TAKE NOTICE that pursuant to Fed. R. Civ. P. 34, defendant, A & B RESTAURANT GROUP, LLC, improperly plead as BENJAMIN STEAKHOUSE, ("Defendant"), requests that plaintiff, Marvin Frank, ("Plaintiff") produce the documents requested below for inspection and copying within thirty (30) days at the office of NICOLL DAVIS & SPINELLA, LLP 250 Park Avenue, Suite 1500, New York, New York 10177. These

document requests shall be continuing and shall require supplementation pursuant to Fed.R.Civ.P. 26(e) if additional pertinent documents are obtained before trial.

DEFINITIONS AND INSTRUCTIONS

1. "Documents" means all materials within the scope of Fed. R. Civ. P. 34.
2. "Benjamin" means defendant in this action namely, A & B RESTAURANT GROUP, LLC, including its employees, agents, representatives, officers, servants or any person acting for or on their behalf
3. "FACTA" means the Fair and Accurate Credit Transaction Act of 2003 amending the Fair Credit Reporting Act.
4. If any documents or things responsive to any of the following requests for production are withheld for any reason, describe generally the substance or subject matter of the documents or things; identify the document withheld, including the date, author, recipient, and all persons receiving copies of the documents; and state the privilege or other basis upon which any response was withheld.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Any and all documents reflecting, referring or relating to your answers to Benjamin's Interrogatories.
2. Any and all documents identified in your answers to Benjamin's Interrogatories.
3. Any and all documents reviewed by any expert in this action.
4. Any and all documents received from any expert.
5. A complete copy of your expert's file including all draft and final reports.
6. Any and all documents received by you from any third-party or person reflecting, referring or relating to the Plaintiff or this action.

7. Any and all documents received by you from any third-party or person reflecting, referring or relating to the Benjamin or this action.

8. Any and all documents reflecting, referring or relating to any and all communications, whether oral or written, between you and Benjamin.

9. Any and all documents upon which you will rely to support your Complaint allegations asserted in this matter.

10. Any and all documents upon which you will rely to support your allegations set forth in paragraphs 23-26, 33-35, 37, 38 and 40-42 of your Complaint in this matter.

11. Any and all documents reflecting, referring or relating to any and all communications, whether oral or written, between you and any third party concerning the subject matter of this action.

12. Produce all documents you intend to rely upon at the trial of this action.

13. Produce all demonstrative exhibits or summaries that you may use at the time of trial.

14. Any and all documents used to calculate your damages or support you claim for damages in this matter.

15. Any and all documents reflecting, referring or relating to any and all agreements proposed or entered into by you and Benjamin in connection with this matter.

16. Any and all documents reflecting, referring or relating to any and all agreements proposed or entered into by you and any party to this action in connection with this matter. Produce all written or recorded statements obtained by you from any party or non-party.

17. Produce all slides, films, videotapes, audiotapes and/or photographs relating or referring to any matter relevant to the allegations or defenses in this lawsuit.

18. Please produce each document that contains, refers to, or relates to any admission you contend any party to this action has made regarding the subject matter of this action.

19. Please produce each document that contains, refers to, or relates to any declaration against interest you contend any party or non-party to this action has made regarding the subject matter of this action.

20. Please produce each document that contains, refers to, or relates to any statements you have obtained regarding the subject matter of this action.

21. Please produce each document which refers or relates to or consists of the underlying civil action.

NICOLL DAVIS & SPINELLA, LLP
Attorneys for Defendant,
A & B RESTAURANT GROUP, LLC,
improperly plead as BENJAMIN STEAKHOUSE,

BY: /s/ Jack T. Spinella
JACK T. SPINELLA

Dated: March 19, 2008

NICOLL DAVIS & SPINELLA LLP
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AFFIDAVIT OF SERVICE

STATE OF NEW JERSEY)
):ss.
COUNTY OF BERGEN)

JENNIFER F. DISENA, being duly sworn, deposes and says:

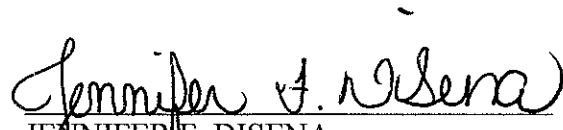
1. Deponent is not a party to this proceeding, is over 18 years of age and resides at Bergen County, New Jersey.

2. On March 19, 2008, Deponent served the within DEFENDANT'S FIRST SET OF INTERROGATORIES and DEFENDANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS upon:

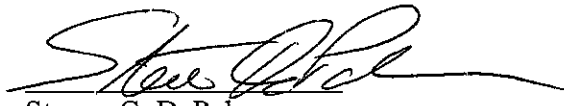
Donald R. Lomax, Esq.
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Anthony G. Barone, Esq.
Barone & Jenkins, P.C.
635 Butterfield Road
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by electronically and first class mail, be depositing a true copy of same in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New Jersey.


JENNIFER F. DISENA

Sworn to before me this
19th day of March 2008.


Steven C. DePalma
Attorney at Law
State of New Jersey